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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/812,733	03/30/2004	Doyle R. Myers	27034-3	4810

7590 08/01/2006

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EXAMINER

RIVERA, WILLIAM ARAUZ

ART UNIT PAPER NUMBER

3654

DATE MAILED: 08/01/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/812,733

Applicant(s)

MYERS, DOYLE R.

Examiner

William A. Rivera

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 15 May 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1 and 10-18 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1 and 10-18 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

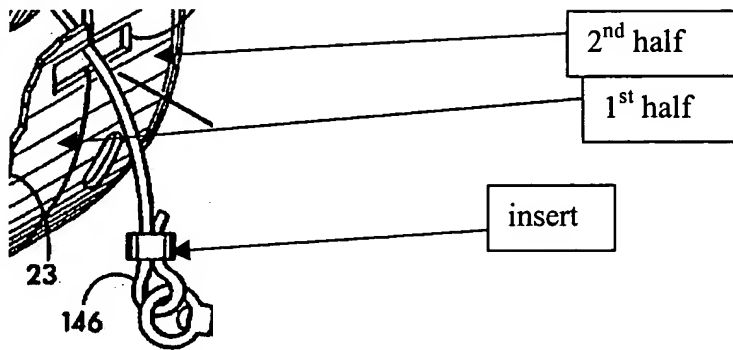
A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claim 1 is rejected under 35 U.S.C. 102(b) as being anticipated by Biba (U.S. Patent No. 5,173,067).

With respect to Claim 1, Biba, Figures 1-4, teaches Biba (U.S. Patent No. 5,173,067) teaches a housing 20 having an interior chamber with an opening 88 to the exterior of said housing; a reel 28; an elongated, flexible lifting member 30 wound around said reel and extending through said opening, said lifting member having a length substantially longer than the reach of an operator; a device 148 on the end of said flexible member; a spring yieldably rotating said reel to wind said flexible member around said reel, said spring having a predetermined stiffness such that it winds said flexible member onto said reel when an object is not connected to the end of said flexible member; a brake 94 wherein said brake comprises an operator manipulated element 99 selectively inter-engageable with one of a plurality of circumferential recesses (between elements 110); said operator manipulated element comprises a plunger extending from said housing; said housing has a handle 90 and an opening adjacent said handle of sufficient size to accommodate the gloved hand of an operator; said plunger for said hand brake is adjacent said handle for single-handed holding; a spring 108 for urging said plunger to a disengaged position; the housing is formed from two halves 22,24; said housing halves has opposed openings, said object lifting device further comprises an insert (near 146).

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### *Claim Rejections - 35 USC § 103*

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over Biba (U.S. Patent No. 5,173,067).

With respect to Claim 10, Biba is advance above. Biba teaches all the elements of the lifting device except for a circular opening. It would have been obvious to one of ordinary skill in the art to provide Biba with a circular opening rather than rectangular because such a configuration would conform to the shape of the cord as well as confining the cord within the circular region thereby allowing for an even winding of the cord.

Claims 1 and 11-16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rogers et al (U.S. Patent No. 3,233,591).

With respect to Claims 1 and 11-16, Rogers et al teach a housing 10 having an interior chamber with an opening 18 to the exterior of said housing; a reel 22; an elongated, flexible

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lifting member 20 wound around said reel and extending through said opening, said lifting member having a length substantially longer than the reach of an operator; a device 24 on the end of said flexible member; a spring 28 yieldably rotating said reel to wind said flexible member around said reel, said spring having a predetermined stiffness such that it winds said flexible member onto said reel when an object is not connected to the end of said flexible member; said housing is formed from two halves 14, 16. Rogers et al teach all the elements of the lifting device except for an elevated platform. However, it would have been obvious to one of ordinary skill in the art that element 26 is not limited to the wrist. As such, it would have been obvious to one of ordinary skill in the art that element 26 could be placed on an elevated platform, such as a tree branch, for the purpose of resting.

Claim 17 and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rogers et al as applied to claims 1, 8, and 11-16 above, and further in view of Kang (U.S. Patent No. 4,944,097).

With respect to Claims 17 and 18, Kang, Figures 1-3, teaches a clip 104, said clip is positioned in one of a plurality of orientations. Note that a screw holds the clip of Kang. Unscrewing this screw would allow the clip to be placed in any orientation. As such, it would have been obvious to one of ordinary skill in the art to make the clip adjustable because such would allow the user to place the device in any orientation depending on the application.

#### ***Response to Arguments***

Applicant's arguments filed May 15, 2006 have been fully considered but they are not persuasive.

With respect to applicant's remarks on page 8 regarding the Biba reference, it should be noted that these remarks are not commensurate with the scope of the claim, i.e., the claim does not set forth the insert being received within the elongated opening. Thus, the claim, as set forth, reads on the Biba reference.

***Conclusion***

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

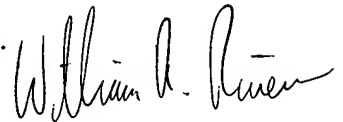
A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to William A. Rivera whose telephone number is 571-272-6953. The examiner can normally be reached on Monday to Thursday - 5:30 AM to 4:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kathy Matecki can be reached on 571-272-6951. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



**WILLIAM A. RIVERA**  
**PRIMARY EXAMINER**

July 24, 2006